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Paper No. 3

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OFFICE OF PETITIONS

In re Application of :
Rich Gioscia et al : DECISION GRANTING
Application No. 09/855,250 : PETITION
Filed: May 14, 2001 :
Attorney Docket No. PALM-3556.US.P :
:

This is a decision on the paper styled "Petition To Secure Filing Date..." filed September 17, 2001, requesting that the above-identified application be accorded a filing date of May 14, 2001, rather than the presently accorded filing date of May 15, 2001. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicants allege that the application was deposited in "Express Mail" service with the U.S. Postal Service, on May 14, 2001. In support, applicants provided a copy of the Express Mail label, receipt no. EL827027919US, showing a Date-In of May 14, 2001. The same Express Mail receipt number was referred to in the copy of the original transmittal letter submitted with the present petition. Applicants request that the application be accorded a filing date of May 14, 2001.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on May 14, 2001.

The petition is granted. Since the petition was a result of PTO's error, applicants may request a refund of \$130 by writing to the Office of Finance, Refund Section. A copy of this decision should accompany applicants' request.

A copy of the corrected Filing Receipt is enclosed.

The application is being returned to Technology Center AU 2681 for examination in due course.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Sherry Brinkley

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt